

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 743

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO PROPERTY TAXATION; IMPLEMENTING ARTICLE 8, SECTION
5 OF THE CONSTITUTION OF NEW MEXICO; EXPANDING THE VETERANS'
PROPERTY TAX EXEMPTION TO APPLY TO ALL HONORABLY DISCHARGED
VETERANS; PROVIDING FOR THE 2004 REDUCTION IN PROPERTY TAXES
DUE FOR ELIGIBLE VETERANS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-37-5 NMSA 1978 (being Laws 1973,
Chapter 258, Section 38, as amended) is amended to read:

"7-37-5. VETERAN EXEMPTION. --

A. Up to four thousand dollars (\$4,000) of the
taxable value of property, including the community or joint
property of husband and wife, subject to the tax is exempt from
the imposition of the tax if the property is owned by a veteran
or the veteran's unmarried surviving spouse if the veteran or

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1 surviving spouse is a New Mexico resident or if the property is
2 held in a grantor trust established under Sections 671 through
3 677 of the Internal Revenue Code of 1986, as those sections may
4 be amended or renumbered, by a veteran or the veteran's
5 unmarried surviving spouse if the veteran or surviving spouse
6 is a New Mexico resident. The exemption shall be deducted from
7 the taxable value of the property to determine the net taxable
8 value of the property. The exemption allowed shall be in the
9 following amounts for the specified tax years:

10 ~~[(1) for tax years prior to 2003, the~~
11 ~~exemption shall be two thousand dollars (\$2,000);~~

12 ~~(2) for tax year 2003, the exemption shall be~~
13 ~~two thousand five hundred dollars (\$2,500);~~

14 ~~(3)]~~ (1) for tax year 2004, the exemption
15 shall be three thousand dollars (\$3,000);

16 ~~[(4)]~~ (2) for tax year 2005, the exemption
17 shall be three thousand five hundred dollars (\$3,500); and

18 ~~[(5)]~~ (3) for tax year 2006 and each
19 subsequent tax year, the exemption shall be four thousand
20 dollars (\$4,000).

21 B. The veteran exemption shall be applied only if
22 claimed and allowed in accordance with Section 7-38-17 NMSA
23 1978 and regulations of the department. For taxpayers who
24 became eligible for a veteran exemption due to the approval of
25 the amendment to Article 8, Section 5 of the constitution of

1 New Mexico in November 2004, a county assessor shall, at the
 2 time of determining the net taxable value of the taxpayer's
 3 property for the 2005 property tax year, in addition to
 4 complying with the provisions of Section 7-38-17 NMSA 1978,
 5 determine the net taxable value of the taxpayer's property that
 6 would result from the application of the veteran exemption for
 7 the 2004 property tax year had the deadline for applying for
 8 the veteran exemption in 2004 occurred after the amendment was
 9 certified. The veteran exemption for 2004 shall not be
 10 credited against the 2005 property value of a taxpayer until
 11 the taxpayer has paid in full the taxpayer's property tax
 12 liability for the 2004 property tax year.

13 C. As used in this section, "veteran" means an
 14 individual who:

15 (1) has been honorably discharged from
 16 membership in the armed forces of the United States; and

17 (2) except as provided in this section, served
 18 in the armed forces of the United States on active duty
 19 continuously for ninety days. [~~any part of which occurred~~
 20 ~~during a period specified in Paragraph (3) of this subsection;~~
 21 ~~and~~

22 (3) ~~served in the armed forces of the~~
 23 ~~United States during one or more of the following periods of~~
 24 ~~armed conflict under orders of the president:~~

25 (a) ~~any armed conflict prior to World~~

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1 ~~War I;~~

2 ~~(b) World War I, which, for the purposes~~
3 ~~of this section, is defined as the period April 6, 1917 through~~
4 ~~April 1, 1920;~~

5 ~~(c) World War II, which, for the~~
6 ~~purposes of this section, is defined as the period December 7,~~
7 ~~1941 through December 31, 1946;~~

8 ~~(d) the Korean conflict, which, for the~~
9 ~~purposes of this section, is defined as the period June 27,~~
10 ~~1950 through January 31, 1955;~~

11 ~~(e) the Vietnam conflict, which, for the~~
12 ~~purposes of this section, is defined as the period August 5,~~
13 ~~1964 through May 7, 1975;~~

14 ~~(f) the Grenada conflict, which, for the~~
15 ~~purposes of this section, is defined as the period October 13~~
16 ~~through December 31, 1983; or~~

17 ~~(g) the Persian gulf conflict, which,~~
18 ~~for the purposes of this section, is defined as the period~~
19 ~~August 2, 1990 through the date upon which the president of the~~
20 ~~United States or a competent military authority declares the~~
21 ~~conflict to be ended, but in no case earlier than July 1,~~
22 ~~1992.]~~

23 D. For the purposes of Subsection C of this
24 section, a person who would otherwise be entitled to status as
25 a veteran except for failure to have served in the armed forces

1 continuously for ninety days is considered to have met that
 2 qualification if [he] the person served [~~during the applicable~~
 3 ~~period~~] for less than ninety days and the reason for not having
 4 served for ninety days was a discharge brought about by
 5 service-connected disablement.

6 E. For the purposes of [~~Paragraph (1) of~~]
 7 Subsection C of this section, a person has been "honorably
 8 discharged" unless [he] the person received either a
 9 dishonorable discharge or a discharge for misconduct.

10 F. For the purposes of this section, a person whose
 11 civilian service has been recognized as service in the armed
 12 forces of the United States under federal law and who has been
 13 issued a discharge certificate by a branch of the armed forces
 14 of the United States shall be considered to have served in the
 15 armed forces of the United States."

16 Section 2. Section 7-38-17 NMSA 1978 (being Laws 1973,
 17 Chapter 258, Section 57, as amended) is amended to read:

18 "7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

19 A. Subject to the requirements of Subsection E of
 20 this section, head-of-family exemptions [~~claimed and allowed in~~
 21 ~~the 1974 or a subsequent tax year~~], veteran exemptions [~~claimed~~
 22 ~~and allowed in the 1982 or a subsequent tax year~~] or disabled
 23 veteran exemptions claimed and allowed in [~~the 2000 or a~~
 24 ~~subsequent~~] a tax year need not be claimed for subsequent tax
 25 years if there is no change in eligibility for the exemption

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1 nor any change in ownership of the property against which the
2 exemption was claimed. Head-of-family and veteran exemptions
3 allowable under this subsection shall be applied automatically
4 by county assessors in the subsequent tax years.

5 B. ~~[Beginning with the 1983 tax year]~~ Other
6 exemptions of real property specified under Section 7-36-7 NMSA
7 1978 for nongovernmental entities shall be claimed in order to
8 be allowed. Once such exemptions are claimed and allowed for a
9 tax year, they need not be claimed for subsequent tax years if
10 there is no change in eligibility. Exemptions allowable under
11 this subsection shall be applied automatically by county
12 assessors in subsequent tax years.

13 C. Except as set forth in Subsection H of this
14 section, an exemption required to be claimed under this section
15 shall be applied for no later than thirty days after the
16 mailing of the county assessor's notices of valuation pursuant
17 to Section 7-38-20 NMSA 1978 in order for it to be allowed for
18 that tax year.

19 D. A person who has had an exemption applied to a
20 tax year and subsequently becomes ineligible for the exemption
21 because of a change in the person's status or a change in the
22 ownership of the property against which the exemption was
23 applied shall notify the county assessor of the loss of
24 eligibility for the exemption by the last day of February of
25 the tax year immediately following the year in which loss of

1 eligibility occurs.

2 E. Exemptions may be claimed by filing proof of
3 eligibility for the exemption with the county assessor. The
4 proof shall be in a form prescribed by regulation of the
5 department. Procedures for determining eligibility of
6 claimants for any exemption shall be prescribed by regulation
7 of the department, and these regulations shall include
8 provisions for requiring the veterans' services department to
9 issue certificates of eligibility for veteran exemptions in a
10 form and with the information required by the department. The
11 regulations shall also include verification procedures to
12 assure that veteran exemptions in excess of the amount
13 authorized under Section 7-37-5 NMSA 1978 are not allowed as a
14 result of multiple claiming in more than one county or claiming
15 against more than one property in a single tax year.

16 F. The department shall consult and cooperate with
17 the veterans' services department in the development, adoption
18 and promulgation of regulations under Subsection E of this
19 section. The veterans' services department shall comply with
20 the promulgated regulations. The veterans' services department
21 shall collect a fee of five dollars (\$5.00) for the issuance of
22 a duplicate certificate of eligibility to a veteran.

23 G. A person who violates the provisions of this
24 section by intentionally claiming and receiving the benefit of
25 an exemption to which the person is not entitled or who fails

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1 to comply with the provisions of Subsection D of this section
2 is guilty of a misdemeanor and shall be punished by a fine of
3 not more than one thousand dollars (\$1,000). A county assessor
4 or the assessor's employee who knowingly permits a claimant for
5 an exemption to receive the benefit of an exemption to which
6 the claimant is not entitled is guilty of a misdemeanor and
7 shall be punished by a fine of not more than one thousand
8 dollars (\$1,000) and shall also be automatically removed from
9 office or dismissed from employment upon conviction under this
10 subsection.

11 H. A veteran or the veteran's unmarried surviving
12 spouse who became eligible to receive a property tax exemption
13 due to the expansion of the class of eligible veterans
14 resulting from approval by the electorate in November 2004 of
15 an amendment to Article 8, Section 5 of the constitution of New
16 Mexico shall apply at the time the veteran or the veteran's
17 unmarried surviving spouse applies for the 2005 veteran
18 exemption, to the county assessor of the county in which the
19 property of the veteran or the veteran's unmarried surviving
20 spouse is located to have the veteran exemptions for the 2004
21 and 2005 property tax years applied to the 2005 taxable value
22 of the property. The same form of documentation required for a
23 veteran's property exemption for property tax year 2005 is
24 required to be presented to the county assessor for property
25 tax year 2004. "

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1 Section 3. TEMPORARY PROVISION-- ADDITIONAL INSTRUCTIONS
2 TO ASSESSORS AND TREASURERS-- SPECIAL REQUIREMENTS FOR 2004
3 VETERAN EXEMPTION-- NEWLY ELIGIBLE VETERANS. --

4 A. A county assessor shall include with the notice
5 of valuation distributed to property owners for the 2005
6 property tax year, a notice to taxpayers informing them that:

7 (1) a taxpayer who is a veteran or the
8 unmarried surviving spouse of a veteran who was not previously
9 eligible for a veteran property tax exemption may be eligible
10 for that exemption due to the change in Article 8, Section 5 of
11 the constitution of New Mexico adopted in November 2004; and

12 (2) a taxpayer who is eligible for the veteran
13 tax exemption for the 2005 property tax year may also be
14 eligible for the veteran tax exemption for the 2004 property
15 tax year.

16 B. The taxpayer shall obtain certification from the
17 veterans' services department verifying that the veteran upon
18 whose service the exemption is claimed is eligible for a tax
19 exemption pursuant to Article 8, Section 5 of the constitution
20 of New Mexico for the 2005 property tax year to present to the
21 county assessor. The veterans' services department shall
22 certify the date on which the veteran became honorably
23 discharged from the armed forces of the United States.

24 C. The county assessor shall determine from the
25 date of discharge from the armed forces of the United States

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1 certified by the veterans' services department if the veteran
2 would have been eligible to receive a tax exemption for the
3 2004 property tax year based on the veteran's date of discharge
4 from the armed forces of the United States and the dates on
5 which the taxpayer took title to the property. A veteran would
6 be eligible if the veteran were discharged on a date prior to
7 the thirtieth day following the date on which the county
8 assessor mailed the notice of valuation in 2004 and had title
9 to the property to which the veteran tax exemption is applied
10 at that time.

11 D. If a taxpayer, who became eligible for the
12 veteran exemption due to the approval of the amendment to
13 Article 8, Section 5 of the constitution of New Mexico,
14 qualifies for the 2004 and 2005 veteran exemptions and has paid
15 in full the taxpayer's property tax liability for the 2004
16 property tax year, for the 2005 property tax year only the
17 county assessor shall combine the total of the veteran
18 exemptions for those two property tax years and deduct the
19 combined total from the taxable value of the taxpayer's
20 property to obtain the net taxable value for the 2005 property
21 tax year.

22 E. Notwithstanding any other provision of law, a
23 county treasurer shall pay a cash refund to a taxpayer in an
24 amount equal to the reduction in tax liability resulting from
25 the veteran exemption for which the taxpayer would have been

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1 eligible for the 2004 property tax year if the taxpayer:

2 (1) became eligible for a veteran exemption
3 due to the amendment to Article 8, Section 5 of the
4 constitution of New Mexico adopted in 2004;

5 (2) owned land in the 2004 property tax year
6 against which a veteran exemption could be applied;

7 (3) transferred ownership of the eligible
8 property after fully satisfying the 2004 property tax
9 liability; and

10 (4) has no property tax liability in the same
11 county against which the veteran exemption for the 2004
12 property tax year can be applied pursuant to this section in
13 property tax year 2005.

14 Section 4. APPLICABILITY.--The provisions of Section 3 of
15 this act apply only to the veteran exemptions claimed in a
16 timely manner in the 2005 property tax year.

17 Section 5. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect immediately.